

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

BERNABE TEJADA BATISTA
Plaintiff

CIVIL NO. 97-1430 (JAG/JA)

v.

Taxation of Costs

JOSE FUENTES AGOSTINI, ET AL
Defendants

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U.S. DISTRICT COURT
SAN JUAN, P.R.

ORDER

On February 27, 2003, a jury verdict was entered in favor of plaintiff and against defendants Lydia Morales and Domingo Alvarez (Docket Nos. 179 & 187). Accordingly, plaintiff moved for taxation of costs (Docket No. 182). Co-defendants Lydia Morales and Domingo Alvarez did not oppose plaintiff's bill of costs but filed a notice of appeal on May 15, 2003 (Docket No. 190).

"It is often sound policy ... to wait until a controversy is finally decided on the merits before awarding costs, and to then determine who is the 'prevailing party', instead of judging that issue piecemeal at each stage of the litigation." Furman v. Cirrito, 782 F.2d 353, 355-56 (2nd Cir. 1986). Thus, a district court "may wait until a judgment is affirmed on appeal before awarding costs." O'Ferral v. Trebol Motors Corp., 45 F.3d 561, 564 (1st Cir. 1995), citing 10 C. Wright & A. Miller, Federal Practice and Procedure § 2668, at 212 (2d Ed. 1983).

WHEREFORE, plaintiff's application for taxation of costs is denied without prejudice. Once judgment on appeal is entered and the appellate mandate becomes final, the prevailing party may file a bill of costs for adjudication by the Clerk. Fed. R. App. P. 39; Fed. R. Civ. P. 54(d).

IT IS SO ORDERED.

In San Juan, Puerto Rico, this 17th day of November, 2003.

FRANCES RIOS DE MORAN
CLERK OF COURT

Angel A. Valencia-Aponte, Esq.
Chief Deputy Clerk

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197